

EXHIBIT 35

217
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - BERGEN COUNTY
CRIMINAL PART
INDICTMENT NO. 95-07-0889
APP. DIV. NO.

STATE OF NEW JERSEY,

Complainant,

vs.

JAMIE FARTHING,

Defendant.

TRANSCRIPT

OF

SENTENCE

Place: Bergen County Courthouse
10 Main Street
Hackensack, New Jersey 07601

Date: February 2, 2001

B E F O R E:

HONORABLE TIMOTHY J. SULLIVAN, J.S.C.

TRANSCRIPT ORDERED BY:

Office of the Public Defender, Appellate Section

A P P E A R A N C E S:

PATRICIA BAGLIVI, ESQ.,
Assistant Prosecutor,
Attorney for the State.

JOHN L. WEICHSEL, ESQ.,
Attorneys for the Defendant.

Video recorded by: N/A

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2/2/01

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1 THE COURT: All right. This is the matter
2 of The State of New Jersey v. Jamie Farthing.

3 Your appearances, Counsels, please?

4 MS. BAGLIVI: Patricia Baglivi, Assistant
5 Prosecutor for the State.

6 MR. WEICHSEL: John Weichsel, 79 Main
7 Street, Hackensack, for Jamie Farthing.

8 THE COURT: We have received from the
9 Appellate Division decision wherein they set aside
10 the verdict of the jury regarding Count No. -- which
11 one was it? The knowing and purposely murder, which
12 is Count No. Seven involving James Politas
13 (phonetic).

14 The Appellate Division also recommended --
15 not recommended, but directed a -- that the matter be
16 retried if the State wishes to do so.

17 What's the State's position on this?

18 MS. BAGLIVI: No, Judge. We will not
19 retry the murder since they've left the founding
20 murder conviction alone.

21 THE COURT: All right. So let the record
22 reflect that the State has withdrawn its Count No.
23 Seven of the Indictment No. 889-95, which is knowing
24 and purposely causing the death of James Politas.
25 Otherwise, the Count Eight, Nine, Ten, Eleven,

1 Twelve, Thirteen are all -- she has been found guilty
2 of all of those.

3 MS. BAGLIVI: One, Two, Three and Four.

4 THE COURT: And One, Two, Three and Four,
5 involving Mr. Hipman (phonetic) here in Hackensack
6 and we are here now to restructure the sentencing.

7 Is that correct?

8 MS. BAGLIVI: Correct.

9 MR. WEICHSEL: That's correct, Your Honor.

10 THE COURT: Mr. Weichsel, do you want to
11 be heard on that before I --

12 MR. WEICHSEL: Very briefly, Judge.

13 The original sentence of the Court was
14 life --

15 THE COURT: I'm sorry. Did you get the
16 update of the -- I had an update of her record for
17 today's purposes,

18 MR. WEICHSEL: No, I did not --

19 MS. BAGLIVI: No, I did not.

20 MR. WEICHSEL: -- Judge.

21 THE COURT: Well, I'd just then -- well,
22 let me show it to you and then hand it back to me.

23 (Court confers with clerk)

24 MR. WEICHSEL: Judge, I've read it.

25 That's in accord with my understanding.

1 THE COURT: All right. Let me hear you,
2 Mr. Weichsel.

3 MR. WEICHSEL: I've had an opportunity to
4 read that, Judge.

5 The original sentence of this Court was
6 life, plus 60, with a parole disqualifier of 40
7 years. The Appellate Division has now reversed the
8 conviction of a purposeful and knowing murder and the
9 Court must resentence Ms. Farthing.

10 Since she has been incarcerated, Judge,
11 Ms. Farthing has taken advantage of opportunities at
12 prison in terms of work and schooling. She is now
13 working at a telemarketing job and doing data entry.
14 She is working double shifts, sometimes from 8 a.m.
15 to 9 p.m. and she's being paid the munificent sum of
16 53 cents per hour out of which the State takes the
17 various VCCB and DEDR penalties that were imposed by
18 the Court, as well as a two-dollar transaction fee.

19 She is on a list to get into college. She
20 is doing whatever she can to rehabilitate herself to
21 eventually become a useful citizen of society. She
22 has also had a long time, since this trial was in the
23 fall of 1996, to reflect and think about what
24 happened during these incidents which occurred back
25 in 1994. She has been incarcerated now approximately

1 almost seven years, Judge.

2 I would ask the Court, in fashioning a
3 sentence for Ms. Farthing, to consider both her age
4 at the time of the offense, the level of culpability
5 of Ms. Farthing, to the codefendants Ivy DeMolina
6 (phonetic) and Thomas Christopher James. I would ask
7 the Court to take all of that into account. I would
8 ask the Court, in fashioning a sentence, to give Ms.
9 Farthing some hope.

10 On the felony murder, Judge, the minimum
11 sentence that she must receive is 30 years without
12 parole and that is obvious, Judge. Originally, the
13 Court sentenced the kidnapping and the armed robbery
14 consecutive to the felony murder -- the purposeful
15 and knowing murder.

16 The Court was under the impression that it
17 must sentence the kidnapping consecutively. I do not
18 believe that is the case. That is something which
19 was raised on appeal, but not dealt with by the
20 Appellate Division, due to the fact that the matter
21 was being remanded to your court for resentencing, in
22 light of the Appellate Division's opinion.

23 I would ask the Court to fashion a
24 sentence that while obviously it's going to be
25 extremely punitive as to Ms. Farthing will give her

Sentence

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1 some hope, some light at the end of the tunnel. The
2 earliest she could ever be -- hope to be eligible for
3 parole would be at the age 48 years, after having
4 served 30 years. I ask the Court to sentence Ms.
5 Farthing to a 30-year sentence with a period of
6 parole ineligibility for 30 years and the sentences
7 on the other counts be concurrent with those
8 sentences.

9 I've had an opportunity to review the
10 sentencing memorandum prepared by the State. I
11 disagree with the State contentions and I would ask
12 the Court to seriously consider that in light of what
13 Ms. Farthing has done in prison and in light of the
14 fact that the Appellate Division reversing the
15 purposeful and knowing murder.

16 Thank you.

17 THE COURT: Mr. Weichsel, with the
18 sentence that was imposed by the courts in the State
19 of New York, was that imposed to run consecutive or
20 concurrent to her sentence --

21 MR. WEICHSEL: I believe that sentence was
22 to run concurrent. That's my client's understanding.

23 THE COURT: Concurrent to the New Jersey
24 sentence?

25 MR. WEICHSEL: Concurrent to the New

1 Jersey sentence. That's my client's -- and I have
2 seen nothing in writing from New York, but that's my
3 client's understanding.

4 (Counsel confers with client)

5 THE COURT: It doesn't indicate in the
6 information that I received.

7 Do you know whether it was consecutive --

8 MS. BAGLIVI: No. I just --

9 THE COURT: -- or not?

10 MS. BAGLIVI: -- saw what was in that
11 document, but I do believe it was concurrent.

12 THE COURT: All right.

13 Ms. Farthing, you have anything you want
14 to say?

15 MR. WEICHSEL: I had -- excuse me, Judge.

16 THE COURT: Do you have anything you want
17 to say? I did receive your letter? Is that it?

18 MS. BAGLIVI: I wasn't aware there was a
19 letter submitted. Is there anything the State could
20 address or know about?

21 THE COURT: No. She was -- you want to see
22 it?

23 MR. WEICHSEL: I haven't seen it either,
24 Judge.

25 THE COURT: All right.

1 MS. BAGLIVI: Judge, I'll just be brief in
2 my comments. I --

3 THE COURT: I don't where it is.

4 Go ahead.

5 MS. BAGLIVI: Judge, I did submit a
6 sentencing brief on this matter and, Judge, the
7 Appellate Division did reverse the purposeful or
8 knowing, but there is still the felony murder it left
9 to be sentenced on and murder is murder, if the
10 legislature has determined that it should be 30 years
11 minimum up to life in prison.

12 Judge, I don't think in resentencing her
13 on the felony murder, the Court -- Mr. Weichsel will
14 stand here and say, well, things have changed. Ms.
15 Farthing is now working; she's trying to make her --
16 a life better for herself; she's wanted to get into
17 college and take correspondence courses and all of
18 things, I guess, he's saying should mitigate in you
19 lowering her sentence.

20 Judge, what I would point out is and what
21 Mr. Weichsel fails to point out is that may be true,
22 that she is now trying to better her life, but at the
23 time she was sentenced, what you didn't have before
24 the Court, what you have now before you is the fact
25 that she's been convicted of a second murder in New

1 York.

2 At the time you sentenced her on the first
3 one, you sentenced her to life, 30 years without
4 parole on the murder and she had no priors other than
5 that minor thing down in Georgia. But, Your Honor, I
6 submitted the Court's transcript to Your Honor
7 because I know it was many years ago. I submitted it
8 to Mr. Weichsel. Your Honor pointed out that this
9 was a diabolical act, a diabolical episode. This
10 woman showed no remorse. She hog-tied Mr. Politas
11 and then participated in all these crimes that led to
12 the death of Mr. Politas.

13 So at the time, Your Honor, even without a
14 prior murder, you gave her life, 30 years without
15 parole. Now she comes before you and she says, well,
16 I'm working, I want to go to college, I want a life,
17 I want to see light at the end of the tunnel. Well,
18 Judge, the fact is that she's now convicted of
19 another crime and I'm not saying give her more of a
20 sentence, but I'm saying it's almost the same
21 sentence.

22 It is murder. Our legislatures determine
23 whether it's felony murder or purposeful or knowing
24 murder. It's still life, 30 years without parole.
25 Then Mr. Weichsel says, well, I would like concurrent

1 sentences and I don't know if he's referring to
2 concurrent with the Hipman crimes or just concurrent
3 with the kidnapping and as I pointed out in my brief
4 and I did submit a copy of the Appellate Division
5 brief by the Attorney General that while it was not
6 required or was not -- Your Honor was not obligated
7 to give a consecutive sentence for the kidnapping of
8 Mr. Politas and the murder of Mr. Politas, the Court
9 could do so and found a lot of different factors
10 here.

11 And, as I pointed out in my brief, the
12 goals of the kidnapping and the murder were different
13 goals here. They were -- the kidnapping, the hog-
14 tying of Mr. Politas was done to facilitate the
15 commission of the robbery; so that they could ransack
16 his house and take his property.

17 That is a different goal and a different
18 objective than the killing. The killing was done --
19 and Your Honor heard the testimony -- it was done so
20 that -- not Jamie Farthing -- so that Ivy DeMolina
21 could escape detection. So the goals here were
22 completely different.

23 And while I realize it's the same victim
24 and it is discretionary with the Court, the Court can
25 impose a kidnapping consecutive to the felony murder,

1 armed robbery and that would be perfectly proper and
2 I think the facts in this case bear it out.

3 But that be said, I think there's no
4 reason to give her a concurrent sentence to the
5 Hipman crime because, Judge, you have separate
6 victims, separate days. As Your Honor pointed out in
7 the transcript, different harms on different victims.
8 To give her anything less than life, 30 years without
9 parole, when in reality if she in fact got a
10 concurrent sentence in New York, she got a free crime
11 anyway.

12 I think life, plus 60, 40 years without
13 parole is an appropriate sentence and I would ask
14 that you only just change the life, 30 years without
15 parole on the murder and then put that on the felony
16 murder, life, 30 years without parole and keep
17 everything else -- keep everything, all the other
18 sentences the same with regards to --

19 THE COURT: You're --

20 MS. BAGLIVI: -- concurrent --

21 THE COURT: -- asking for life on the
22 felony murder?

23 MS. BAGLIVI: Right. Life, 30 years
24 without parole on the felony murder.

25 THE COURT: Okay. I got you.

Sentence

12

1 I --

2 MR. WEICHSEL: Judge, can I briefly
3 respond?

4 THE COURT: Yes.

5 MR. WEICHSEL: Obviously, when the Court
6 sentenced Ms. Farthing on February 14th, 1997, the
7 Court was aware of the New York murder charges at the
8 time. I don't think that's any different than what
9 we have before the court -- before the Court now.

10 Number two, Judge, in terms of the
11 kidnapping being consecutive. The Court is now
12 sentencing Ms. Farthing on two counts of felony
13 murder. Felony murder, kidnapping felony murder,
14 robbery. I'm asking the Court to exercise its
15 discretion, not to make the kidnapping consecutive to
16 the felony murder.

17 I'm also asking the Court, in light of the
18 fact that the purposeful and knowing murder was
19 reversed, to sentence Ms. Farthing to 30 years with
20 no parole eligibility for 30 years on the felony
21 murder, with that being the sentence.

22 Thank you.

23 THE COURT: Thank you.

24 I understand what you're asking. I
25 understand what the State's asking.

1 I had an opportunity to -- with -- the
2 Prosecutor submitted a memorandum with regard to this
3 sentencing.

4 Now, Ms. Farthing, would you please stand?

5 And I had an opportunity -- they
6 submitted, and I appreciate it, my -- the sentencing
7 transcript of when I did sentence Ms. Farthing back
8 in February of 1997, initially, and I read it over
9 again and it brought back a great deal of my own
10 feelings and my own thoughts about this case.

11 I guess what happens when you sit on these
12 kinds of cases is that you kind of -- in order to
13 live your life, one's life -- attorneys are the same,
14 I suppose, as judges. There are certain things you
15 block out and you just move on. You remember the
16 case, but there are some of the details in the case
17 that a family never can block out. But somehow you
18 let it go.

19 But, you know, when I read the transcript
20 again after -- it's almost three years to the day.
21 No. Let's see. Four years, four years to the day
22 and it just churned up everything again as to what
23 was involved in this case and my findings at the time
24 and how we all struggled with it; and how I initially
25 had said that everybody in the courtroom was a loser,

1 including the defendant, the families.

2 And I even quoted Mr. Cosby, if you
3 remember, he had just lost his son and some kind of
4 reference to the fact that how -- what a family feels
5 like and his reference was that you only -- you have
6 to be a parent to have lost a child to understand how
7 he felt and I expressed that with regard to the
8 Politas family. I could not imagine the feeling.
9 And I remember reviewing those kinds of situations.

10 None of that's changed, you see. And
11 that's what I read in the transcript. Those elements
12 are there. I made findings at the time regarding Ms.
13 Farthing and those findings have changed very little.
14 Knowledge and purpose of the -- knowing and purposely
15 knowing Mr. Politas, I could understand when I went
16 through the Appellate Division's review of the case,
17 how we -- very possibly, it wasn't there legal wise
18 that she had full knowledge of what was going on.

19 We weren't -- the State didn't prove it
20 using the evidence they had. I have no quarrel at
21 all with the Appellate Division's decision on the
22 matter. In fact, I appreciate the fact that they
23 considered the rest of the case and affirmed it.

24 So here we are. They're asking us now
25 to -- in light of their decision that we resentence

1 or restructure the sentence and I go back over the
2 findings that I made at the time of the original
3 sentence and I adopt them and they become part of
4 this record as my findings and basically, I'll just
5 go through them quickly.

6 With regard to Count One, which is the
7 kidnapping of Robert Hipman. You -- I had sentenced
8 you and -- to a sentence of 30 years and on the
9 robbery, Count Two, I sentenced you to 20 years with
10 a 10-year period of parole ineligibility. Possession
11 of a gun for unlawful purpose, a Graves Act, which
12 merged with Number Two, which gives you the reason
13 for the stip, as well as the factors of the stip on
14 the first degree armed robbery; then for the
15 possession of the weapon without a permit.

16 When I was reading this particular
17 transcript again, I was reminded of the fact that the
18 role you played in Mr. Hipman's kidnapping and
19 robbery was one in which Mr. Hipman, by some stroke,
20 was not murdered by your gang. He testified and was
21 able to tell us what happened and you were the one
22 with the gun and you were the one that put the gun to
23 his head and he said that. He said, she did it.

24 So to me that was a separate and distinct
25 crime from the Edgewater crime and any sentence this

1 Court imposes, for the same reasons I stated in my
2 record back in February 14th, 1997, shall run
3 consecutive to the sentence I impose. I am not
4 changing that.

5 So the aggregate sentence with regards to
6 Counts One, Two -- Count Two and Three were merged.
7 So Count One, Two and Four are 30 years for
8 kidnapping, 20 years with a 10 stip date and five
9 years for the possession of the weapon. They will
10 run concurrent. The total aggregate of that is 30
11 years with 10 years period of parole ineligibility.

12 Now with regard to Count No. Seven, that
13 has been withdrawn by the Prosecutor's Office. You
14 have been found guilty of felony murder. The felony
15 being kidnapping and Count Eight and Count Nine
16 felony murder, with regard to armed robbery on Count
17 Nine, involving the death of Mr. Politas.

18 I'm sentencing -- and I'm considering the
19 fact that now I have definitely before me, aside from
20 the other aggravating factors, you have a second
21 murder, which is a -- out of Rivers Edge, New York.
22 You were arrested on June 11th, 1997, Suffern County
23 New York on July 2, 1997.

24 You were sentenced to second degree murder
25 for 15 years to life on an -- a felony and that was

1 the death -- I don't know who that individual was,
2 but he was part of that whole rampage that you people
3 were on. So now I have that to consider too, in
4 imposing a sentence here on the felony murder.

5 Count Eight and Count Nine will be
6 sentenced separately. They do not now merge with
7 Count Seven as they did originally. Count Eleven,
8 which is the armed robbery, will merge with Count
9 Twelve, being the possession of the gun -- of the
10 weapon, that is a gun, for unlawful purposes. Count
11 Thirteen, the possession of weapon without a permit.
12 You -- I'm imposing a sentence of five years and that
13 will -- well, they'll all run concurrent.

14 All right. It's the sentence of this
15 Court and I find that the aggravating factors
16 substantially outweigh the mitigating factors, as I
17 found originally. They have not changed.

18 Nothing has changed, Ms. Farthing, except
19 that you are spending your last couple of years in
20 jail -- in prison and making the best of it which is
21 good.

22 On Count Eight, felony murder, you are,
23 hereby, sentenced to be placed in the custody of the
24 Commissioner of Corrections for the rest of your
25 life. I'm giving you a life sentence on that with

1 30-year period of parole ineligibility.

2 On Count Nine, felony murder, regarding
3 the armed robbery. You are sentenced to life
4 imprisonment with 30 years without parole.

5 On Count Ten, the kidnapping count of the
6 first degree, you will receive a 30-year sentence. I
7 will not impose a stip on that.

8 Counts Eleven and Twelve merge for armed
9 robbery. Count One, an armed robbery in the first
10 degree. You're sentenced to 20 years with a 10-year
11 period of parole ineligibility as regards the Graves
12 Act. There was use of a gun. With regard to Count
13 Thirteen, possession of a gun without a permit. You
14 will receive a sentence of five years.

15 The total aggregate of the -- on the Count
16 Eight, Nine, Ten, Eleven and Twelve merging and
17 Thirteen, they'll run concurrent with each other.
18 You will receive a life sentence, an aggregate of
19 life imprisonment with a 30-year period of parole
20 ineligibility and all of this will run consecutive to
21 the aggregate with -- regarding the -- Mr. Hipman's
22 robbery, which is 30 years with a 10-year parole
23 ineligibility.

24 When you total it all out, I come up with
25 life imprisonment with 40 years period of parole

1 ineligibility.

2 Is that what you get?

3 MS. BAGLIVI: Yes.

4 MR. WEICHSEL: Yeah.

5 THE COURT: That is the aggregate sentence
6 in this case. All other matters, the Victims of
7 Violent Crimes Compensation -- I think there might be
8 a problem in that one. I just ran across it
9 because -- what did I impose?

10 MR. WEICHSEL: I thought it was 2,500.

11 MS. BAGLIVI: Well, \$2,500 on VCCB. So --

12 THE COURT: Yeah. I'm going to reduce
13 that. I did get a case since then and that there has
14 to be a showing that she's able to pay that.

15 MS. BAGLIVI: Even the VCCB?

16 THE COURT: Yeah. I was imposing it at
17 the time -- I did it with another case too, where I
18 felt the heinousness of the crime raised the VCCB,
19 but they -- I got it back and it said you can't do
20 this.

21 MR. WEICHSEL: Oh. So you had imposed a
22 2,000-dollar VCCB on Count Seven, which is now --

23 THE COURT: So that's now dropped.

24 MR. WEICHSEL: That's --

25 THE COURT: That's out.

1 MS. BAGLIVI: You're giving the minimum?

2 THE COURT: No. On the Violent Crimes,
3 it's -- the minimum is 100.

4 MS. BAGLIVI: \$100.

5 THE COURT: So it's \$100 on each one of
6 the violent crimes and \$50 on the -- you know, for
7 example, the possession of the weapon without a
8 permit and we'll fix that up. We'll add it all up,
9 but the \$2,000 that I imposed upon the knowing and
10 purposely murder is now void also.

11 You have 45 days to appeal the sentence,
12 if you don't agree with it. If you can't afford an
13 attorney, you can apply for the Public Defender's
14 Office for assistance. As far as jail credit is
15 concerned -- and I'm not sure. I guess this is a
16 sentence where she'll get jail credit for all the
17 time she's been in?

18 MS. BAGLIVI: Right.

19 MR. WEICHSEL: Yes, Judge.

20 THE COURT: And she -- I think we have her
21 here starting when she was arrested on September
22 18th, 1994. Is that when you were arrested?

23 MR. WEICHSEL: That's --

24 MS. BAGLIVI: It's August of '94.

25 MR. WEICHSEL: September 18th is when she

1 was arrested.

2 THE COURT: No, I have September 18th on
3 that. The original presentencing.

4 MS. BAGLIVI: It was August.

5 MR. WEICHSEL: She thought --

6 MS. BAGLIVI: Oh. You know what? You're
7 right.

8 THE DEFENDANT: It could be --

9 MR. WEICHSEL: No, it wasn't.

10 THE COURT: No, then we gave her seven
11 days more.

12 MR. WEICHSEL: Yeah.

13 MS. BAGLIVI: Right.

14 THE COURT: She was eight-eighty-one.

15 MS. BAGLIVI: Right. She wasn't arrested
16 until some time after. I was going by the date --

17 THE COURT: She was -- I gave her seven
18 days more. No, no. I gave her seven days because we
19 sentenced --

20 MS. BAGLIVI: The sentencing --

21 THE COURT: -- her on --

22 MS. BAGLIVI: -- was moved. Right.

23 MR. WEICHSEL: Right.

24 THE COURT: All right. Ms. Farthing, good
25 luck.

1 MS. BAGLIVI: Did you tell her about her
2 appeal?

3 MR. WEICHSEL: What?

4 THE COURT: Yeah, I have -- you have 45
5 days to appeal the sentence if you don't agree or you
6 can't afford an attorney, you can apply with the
7 Public Defender's Office.

8 MS. BAGLIVI: Thank you.

9 (Proceedings concluded)

I, STEFANIE LUCAS, the assigned
transcriber, do hereby certify that the foregoing
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Stefanie Lucas, Trainee

Date: 6/4/01

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